



PERSISTENT NON-COMPLIANCE FRAMEWORK:

Overview and FAQs

BetterWork



International
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Introduction

Better Work differentiates factories and services according to factory performance levels. This is done using objective, performance based criteria to ensure that the programme can effectively target its interventions. The BW differentiation framework makes use of incentives, recognition and exclusive services for high performance factories, and progressive warnings and pressure points for factories where improvements are not realized.

As an integral element of its approach to differentiate factories, BW has developed a framework to address persistent non-compliance (PNC). The PNC framework is an additional and stronger mechanism to change the behaviors, attitudes and compliance levels of a small group of factories that demonstrate an inability or are not sufficiently committed to improving. It creates an additional mechanism to stimulate improvement as part of a broader strategy to strengthen the garment sector as a whole.

Better Work implements this framework at the national level with a strong role for the Labour Inspectorate. The PNC framework is initially only implemented in Vietnam. Elements of this approach may be replicated to other countries in the future.

The purpose of this document is to describe the PNC framework and to offer guidance to brands and factories to support them in preventing PNC designation.

Why is Better Work focusing on PNC factories?

2

The principle of Continuous Improvement is at the heart of Better Work's factory service model. Through its assessment, advisory and training services, BW supports factories to take a long-lasting approach to address root causes and strengthen social dialogue and internal systems at the factory. To effectively implement this approach BW asks brands to give factories time and incentives to implement improvements. Independent impact studies have pointed out that this approach has positively impacted enterprise competitiveness, compliance with labour standards as well as working conditions and quality of life of millions of workers around the world.

Since 2017, BW uses public reporting on factory compliance levels as an accountability tool to encourage changes at factories. Forthcoming research by the World Bank reveals that public reporting is associated with increased compliance levels, with clear impact on occupational health and safety, work time and child labor.

The PNC framework should be understood as an additional accountability mechanism to address low performance by a small group of factories. Doing so, it aims to protect the reputation of the wider industry. It is based on a stringent and balanced approach that is based on public data that are released through BW public reporting. Through a series of progressive warnings, the framework puts greater accountability in the hands of factories with a shared responsibility for buyers.

The PNC framework also provides a strong role for the Labour Inspectorate at the national level to support it in fulfilling its mandate by identifying factories where enforcement is necessary. This is an important element of BW's strategy to strengthen the capacity of government agencies to support them in effectively exercising their enforcement authority and power to influence compliance.

What is a persistent non-compliant factory?

After three years of BW services the great majority of registered factories tend to have significantly improved their level of compliance with publicly reported issues. A small group of factories structurally demonstrates low compliance levels, despite several assessments and repeated services to strengthen their capacity. It is evident that compliance levels at such factories will not improve if BW services are continued as a result of a lack of commitment or incentive and/or capacity to make improvements. At these factories, alternative pressure points are needed.

Factories are classified as “persistently non-compliant” factories (henceforth PNC factories) if they repeatedly demonstrate low compliance levels in the BW assessment. According to BW assessment data, such factories are generally out of compliance on 4 or more public reporting issues.

How will the persistent non-compliance framework work in practice?

Factories are designated as persistently non-compliant if Better Work has found 4 or more violations of issues subject to public reporting in 3 consecutive BW assessments.

Based on BW public reporting data, when a factory is found to be out of compliance on four or more publicly reported issues in a single assessment, Better Work will inform the factory and subscribing buyers that the factory is at risk of being designated as PNC.

Better Work will continue to provide advisory and training services to the factory, tailored to the improvement needs of the factory, aiming to improve its performance on public reporting issues. During this time, buyers have the opportunity to engage with BW and the factory to encourage the factory to address the issues. Better Work will notify factories and subscribing buyers if a firm is at risk of being designated as persistently noncompliant in the following ways:

- ◆ Non-compliance with public reporting issues is highlighted in assessment reports and the improvement plan
- ◆ The total number of public reporting issues on which the factory is out of compliance is specified on the BW Portal and in BW Progress Reports.
- ◆ If a factory is out of compliance on 4 or more public reporting issues the factory and subscribing buyers will receive a notification after the assessment.
- ◆ Better Work will alert buyer partners of factories at risk of being designated as PNC in its regular quarterly calls.

This process is repeated with similar services and alerts if the factory is again found to be out of compliance on four or more publicly reported issues in the next assessment.

When a factory is found to be out of compliance on 3 or fewer issues subject to public reporting in the second or third assessment, the process towards PNC designation is stopped.

When a factory is found to be out of compliance on four or more publicly reported issues in three consecutive assessments, Better Work informs the factory and subscribing buyers that the factory is considered to be persistently noncompliant.

What is the consequence of being designated the PNC status?

After a factory has been designated as persistently noncompliant it will not be admitted to a new cycle of BW services. For the remainder of the factory's then running service delivery cycle, BW will no longer visit the factory to deliver services. The factory can however continue to participate in seminars and other shared learning events organized by BW (until the end of the current cycle).

BW will provide the Inspectorate with the factory's name and publicly reported non-compliance issues. BW will request the Inspectorate prioritize the factory for inspection as regulated by national law. The Inspectorate will prioritize these factories for inspection visits as regulated by the law. When conducting an inspection visit at a persistently non-compliant factory the inspectorate will include the non-compliance issues reported by Better Work that were the basis for PNC designation in the scope of its visit.

To support the factory in making improvements after PNC designation, Better Work will convene a meeting with subscribing buyers and national stakeholders. The meeting will focus on identifying ways for the factory to come into compliance on key issues, possibly with assistance from stakeholders and/or services providers at the local or national level.

How can factories and buyers prevent PNC designation?

Better Work encourages factories and buyers to take a preventative approach to avoid that factories are designated as persistently noncompliant.

Better Work encourages factories to prioritize issues that are subject to public reporting for improvement. Subscribing buyers are asked to use their relationship with the factory (or supplier/vendor) to encourage the factory to prioritize and report progress on these issues, and to track progress over time through the BW Portal. Buyers should maintain an active relationship with factories working on these issues and are asked not to terminate business.

Better Work will tailor its advisory and training services to factories that are at risk of being designated as PNC by supporting the management and bipartite committees to effectively address public reported issues where the factory is out of compliance.

When will the PNC framework be introduced?

Launching initially in Vietnam only, the PNC framework will consider all assessments subject to public reporting.

Public reporting in Vietnam was launched in July 2017. The first PNC designations could take place in 2019 if any Vietnam factories have been out of compliance on 4 or more issues subject to public reporting in three consecutive assessments.

Elements of the approach may be replicated in other countries in the future.

Can a PNC factory return to the programme?

5

If a factory demonstrates that it has resolved all the issues that resulted in the factory being found persistently noncompliant, it can apply for readmission to the BW programme.

In order to be readmitted it must submit evidence demonstrating that it has addressed all of its publicly reported noncompliance issues, including their underlying root causes. In addition, the factory must submit copies of its improvement reports in response to visits by the Inspectorate. The BW programme manager will review this evidence to determine whether a factory should be readmitted to the programme.

Better Work reserves the option of conducting an unannounced assessment at the factory in order to confirm whether all publicly reported noncompliance issues, including their underlying root causes have been resolved.